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COMMITTEE AGAINST TORTURE

Tenth session

SUMMARY RECORD OF THE 152nd MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 29 April 1993, at 3 p.m.

Chairman: Mr. VOYAME

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GE.93-13450 (E)

The meeting was called to order at 3.05 p.m.

ANNUAL REPORT OF THE COMMITTEE ON ITS ACTIVITIES (agenda item 10) (CAT/C/X/CRP.1 and Add.1-3, CRP.2 and Add.1-16, CRP.3-6)

1. The CHAIRMAN invited members to consider the annual report of the Committee on its activities.

Chapter I. Organizational and other matters (CAT/C/X/CRP.1)

2. Mr. BRUNI (Secretary of the Committee) said that figures and dates left blank in the document would be inserted later by the secretariat. The text had not yet been edited but, once it had been adopted, that would be done by the secretariat.

3. Document CAT/C/X/CRP.1 was adopted.

Chapter IV. Consideration of reports submitted by States parties under article 19 of the Convention (CAT/C/X/CRP.2)

4. Mr. LORENZO said that, when the document had been drafted, it had been thought that the reports of Belize and Peru would be available. It might therefore be appropriate to add a sentence along the lines of paragraph 2 of the document covering those two countries.

5. The CHAIRMAN suggested that paragraph 1 should say that the Committee had examined initial reports submitted by four States parties and not six. A sentence might be added to paragraph 4 to cover those cases indicating that, at the request of the Government concerned, a discussion had been postponed until the next session.

6. He also thought that in the first sentence of paragraph 5 it would be procedurally more correct to amend the words following the asterisk to read: "the Chairman, in consultation with the members of the Committee and the secretariat, designated a country rapporteur and an alternate rapporteur for each of the reports submitted ...".

7. Mr. BURNS (Rapporteur) agreed with the Chairman's suggestions on paragraph 5.

8. Document CAT/C/X/CRP.2, as amended, was adopted.

Document CAT/C/X/CRP.2/Add.1 (Afghanistan)

9. Mr. BURNS (Rapporteur) suggested that the first sentence of paragraph 6 might be amended to read: "In connection with article 8 of the Convention, it was observed that the constitutional provisions prohibiting the extradition of Afghan citizens to another State might not comply with the requirements of that article unless provision was also made domestically for the prosecution of such citizens."

10. The CHAIRMAN asked the secretariat to ensure that the wording in paragraph 13 relating to "a new report combining the information required in an initial report, a supplementary report and a periodic report in a single document" was consistent and clear in all language versions.

11. Document CAT/C/X/CRP.2/Add.1, as amended, was adopted.

Document CAT/C/X/CRP.2/Add.2 (Norway)

12. Mr. BRUNI (Secretary of the Committee), replying to a question by the CHAIRMAN, said he understood the meaning of the third sentence of paragraph 4 to be that Norwegian courts could quote a convention but not use it in any other way.

13. Following a brief discussion in which the CHAIRMAN, Mr. BURNS, Mr. SORENSEN and Mr. LORENZO took part, Mr. BURNS (Rapporteur) suggested that the sentence might be amended to read: "From the information provided, it appeared that the Convention was not a formal part of domestic law but that Norwegian courts were able to refer to international treaties in applying domestic law".

14. The CHAIRMAN said that the wording proposed by Mr. Burns reflected what was clearly intended. If there was no objection, he would take it that the Committee wished to adopt the wording proposed by Mr. Burns.

15. Document CAT/C/X/CRP.2/Add.2, as amended, was adopted.

Document CAT/C/X/CRP.2/Add.3 (Argentina)

16. The CHAIRMAN said that he was unclear as to the purport of paragraph 6.

17. Mr. EL IBRASHI said that there was a need to affirm the dignity of the public prosecutor's office and the paragraph should reflect that.

18. Mr. LORENZO said that in Latin American countries judges were independent of the Executive and there was every reason for issuing general guidelines to reinforce that independence. The part of the sentence following the word "mechanism" could perhaps be amended to read "reminding public prosecutors in courts of first instance that they must comply faithfully with their legal obligations with respect to the matters dealt with in the Convention".

19. The CHAIRMAN said that that wording would be duly incorporated in the paragraph.

20. He drew attention to an apparently puzzling reference in paragraph 16 to "persons who had been placed at the disposal of the National Executive (PEN)".

21. Mr. LORENZO explained that, under the dictatorship in Argentina, persons had been detained, not at the behest of the judiciary, but by the Executive. The wording would be clearer if the text were to read "persons detained and held at the disposal of the National Executive (PEN)".

22. The CHAIRMAN said that the text would be amended accordingly.

23. Document CAT/C/X/CRP.2/Add.3, as amended, was adopted.

Document CAT/C/X/CRP.2/Add.4 (Ukraine)

24. The CHAIRMAN, referring to the reference in paragraph 16 to "an additional report", said that it was important to preserve consistency in distinguishing between various types of reports: there was first of all an initial report, which was followed either by an additional report or by a periodic report. The latter was referred to in the Convention as a "supplementary" report.

25. Document CAT/C/X/CRP.2/Add.4 was adopted.

Document CAT/C/X/CRP.2/Add.5 (New Zealand)

26. Document CAT/C/X/CRP.2/Add.5 was adopted.

The meeting was suspended at 4.30 p.m. and resumed at 4.45 p.m.

27. The CHAIRMAN invited members to continue consideration of the annual report of the Committee on its activities.

Document CAT/C/X/CRP.2/Add.6 (Germany)

28. The CHAIRMAN asked why paragraph 5 of the English text spoke of "acts of cruel or unusual punishment".

29. Mr. BURNS (Rapporteur) suggested that the text should be amended to read "cruel or inhuman punishment".

30. Document CAT/C/X/CRP.2/Add.6, as amended, was adopted.

Document CAT/C/X/CRP.2/Add.7 (Libyan Arab Jamahiriya)

31. The CHAIRMAN, replying to questions from members, informed the Committee that all references in the documents to initial, additional and periodic reports would be checked for consistency.

32. Document CAT/C/X/CRP.2/Add.7 was adopted.

Document CAT/C/X/CRP.2/Add.8 (Mexico)

33. Document CAT/C/X/CRP.2/Add.8 was adopted.

Document CAT/C/X/CRP.2/Add.9 (Belarus)

34. Document CAT/C/X/CRP.2/Add.9 was adopted.

Document CAT/C/X/CRP.2/Add.10 (United Kingdom of Great Britain and Northern Ireland: Dependent territories)

35. Mr. BURNS (Rapporteur) said that the final sentence in paragraph 21 made little sense. He suggested that it should be amended to read "The court has no discretion to admit an involuntary confession".

36. Mr. EL IBRASHI said that two points needed to be raised in connection with paragraph 21. Firstly, in cases where confessions had been obtained involuntarily or under duress, courts could not accept them. Secondly, it was possible for a confession to be voluntary but not obtained in conformity with the law. It was essential that the report should reflect the distinction between the two points.

37. Mr. BURNS (Rapporteur) suggested that the sentence he had just read out should become the penultimate sentence and the final sentence of paragraph 21 should read: "The court does, however, have a discretion in cases where confessions have been obtained voluntarily but not in conformity with the law".

38. Document CAT/C/X/CRP.2/Add.10, as amended, was adopted.

39. The CHAIRMAN said that the Committee had thus concluded consideration of the reports of States which had been submitted at the previous session in November. The remaining documents would be dealt with the following day. Unfortunately, some of the documents were not available in all working languages. However, that was not the first time the Committee had had to face such a situation.

40. Mr. KHITRIN suggested that, instead of reading out the documents in full in English or French, for which an interpretation would be given, only the conclusions should be read out.

41. It was so decided.

42. Mr. LORENZO, referring to document CAT/C/X/CRP.6, said that annex IV, page 12 which listed country rapporteurs and alternate country rapporteurs, should mention Mr. Burns, who was alternate country rapporteur for the periodic report of Sweden (CAT/C/17/Add.9).

43. The CHAIRMAN said that the secretariat would deal with that point.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2) (continued)

Invitation to the Committee to visit Mexico (continued)

44. The CHAIRMAN, referring to the Mexican Government's invitation to the Committee to visit Mexico, reiterated his suggestion that two members of the Committee should accept the invitation, on the understanding that the purpose of the visit would be to provide advisory services. For the moment, the members envisaged were himself, as Chairman, and Mr. Gil Lavedra. It was also hoped that the Secretary of the Committee, and possibly other members of the

secretariat staff, could accompany the mission, subject to approval. It had been established that the Mexican authorities would meet the expenses of the visit, including air travel.

45. Mr. MIKHAILOV said that the invitation had been addressed to the entire Committee and suggested that all members should take part in the visit. The Mexican authorities' offer to meet all expenses would surely cover the cost of any necessary interpreting services also. He agreed that secretariat staff should accompany the mission, which must be based on a special programme; members could help to draw up that programme.

46. Mr. SORENSEN said that, as he saw it, the only difficulty lay in establishing which of the Committee's rules of procedure sanctioned such a visit.

47. Mr. BURNS said that there could be no question of members visiting Mexico in their capacity as members of the Committee against Torture; they could only go as members of an advisory services mission. He agreed that the invitation did not restrict the number of participants.

48. Mr. MIKHAILOV said he wondered whether it was appropriate to respond to an invitation clearly addressed to the Committee by offering to send an advisory services mission. He felt that the Committee had a right to accept an invitation addressed to it as such.

49. Mr. EL IBRASHI said he saw no objection to a visit by the Committee, provided that a full programme of work was established in advance. Such a visit could set a good precedent.

50. Mr. LORENZO added that it would also serve to promote understanding of the Committee's role.

51. Mr. SORENSEN said that the visit should not be seen as a public relations exercise but must have the clear purpose of providing technical assistance. He hoped that the Committee could decide, at the current meeting, on the precise purpose.

52. Mr. BURNS said that, in his view, only a visit organized under a structured programme of technical assistance could be contemplated. The arrangements must also be made through the appropriate advisory services secretariat.

53. Mr. MIKHAILOV withdrew his earlier suggestion.

54. Following a brief discussion, the CHAIRMAN suggested that he should write to Ms. Diaz Palacios saying that, in principle, one or two members of the Committee could visit Mexico on an assistance mission, but would first require an indication of the exact dates and a detailed programme, which presumably would have to be discussed with the Mexican authorities.

55. In response to an observation by Mr. SORENSEN, he said that Ms. Diaz Palacios would be requested to address all further correspondence to the Advisory Services Branch within the Centre for Human Rights.

56. It was so agreed.

Report on the working methods

57. The CHAIRMAN announced that he had asked the secretariat to prepare a report on working methods, which might be of interest both to the Committee and to other treaty bodies as a basis for improvement. The report had already been received and would be made available to members before the Committee's next session, when it could be discussed.

The meeting rose at 6 p.m.